

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Joshua Lee Phillips,	)	C/A No.: 1:14-2655-TLW-SVH
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
Major Gregory Washington; Lieutenant	)	
Kimberly Garvin; Lieutenant Tonya	)	REPORT AND RECOMMENDATION
Johnson; Lieutenant Williams; Sergeant	)	
Gibson; Corporal Hanna; Officer	)	
Arend; Officer Crowder; and Officer	)	
M. Gollach,	)	
	)	
Defendants.	)	
	)	

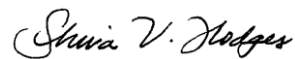
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Plaintiff, proceeding pro se and in forma pauperis, brought this action alleging violations of his constitutional rights pursuant to 42 U.S.C. § 1983. Defendants filed a motion for summary judgment on June 4, 2015. [ECF No. 33]. As Plaintiff is proceeding pro se, the court entered an order pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), on June 5, 2015, advising him of the importance of the motion for summary judgment and of the need for him to file an adequate response by July 9, 2015. [ECF No. 34]. Plaintiff was specifically advised that if he failed to respond adequately, Defendants' motion may be granted. Notwithstanding the specific warning and instructions set forth in the court's *Roseboro* order, Plaintiff has failed to respond to the motion.

On July 14, 2015, the court ordered Plaintiff to advise whether he wished to continue with the case by July 28, 2015. [ECF No. 36]. The order was returned to the court on July 29, 2015. [ECF No. 38]. Because it appeared that Plaintiff remained at

Kirkland Correctional Institution (“KCI”), the undersigned issued another order on July 31, 2015, extending Plaintiff’s deadline to respond until August 14, 2015. [ECF No. 39]. The Clerk’s office mailed the order to Plaintiff at KCI. [ECF No. 40]. On August 6, 2015, the undersigned’s July 31 order was returned in the mail as undeliverable. [ECF No. 41]. A notation on the envelope says “Refused 8/4/15.” *Id.* at 2. Pursuant to chambers’ request, the Clerk’s office called the KCI mailroom and was informed that Plaintiff had refused the mail from the court. [ECF No. 42]. As such, it appears to the court that he does not oppose the motion and wishes to abandon this action. Based on the foregoing, the undersigned recommends this action be dismissed with prejudice for failure to prosecute. *See Davis v. Williams*, 588 F.2d 69, 70 (4th Cir. 1978); Fed. R. Civ. P. 41(b).

IT IS SO RECOMMENDED.



August 11, 2015  
Columbia, South Carolina

Shiva V. Hodges  
United States Magistrate Judge

**The parties are directed to note the important information in the attached  
“Notice of Right to File Objections to Report and Recommendation.”**

### **Notice of Right to File Objections to Report and Recommendation**

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); *see* Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Robin L. Blume, Clerk  
United States District Court  
901 Richland Street  
Columbia, South Carolina 29201

**Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation.** 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).